

## **Investigation and Enforcement Division**

### **2012 Annual Report**

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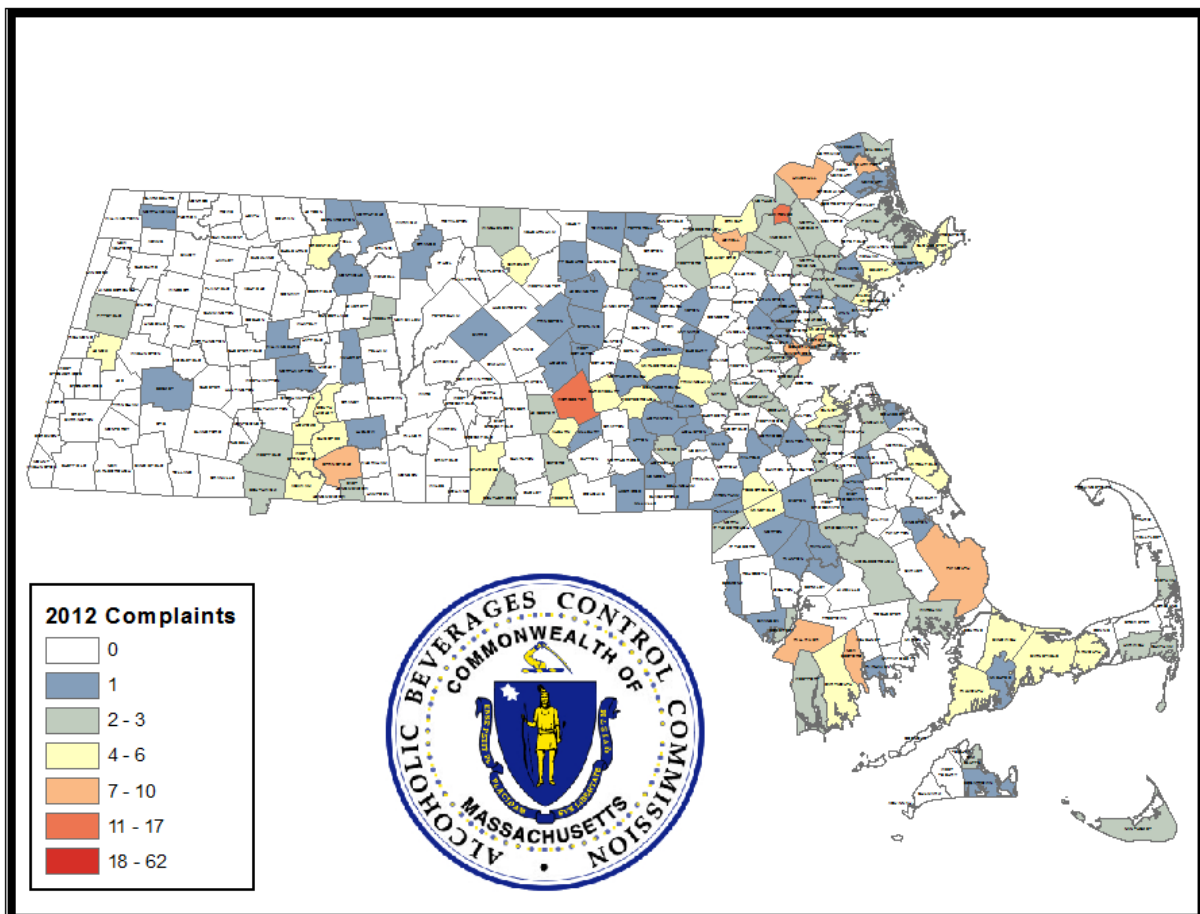
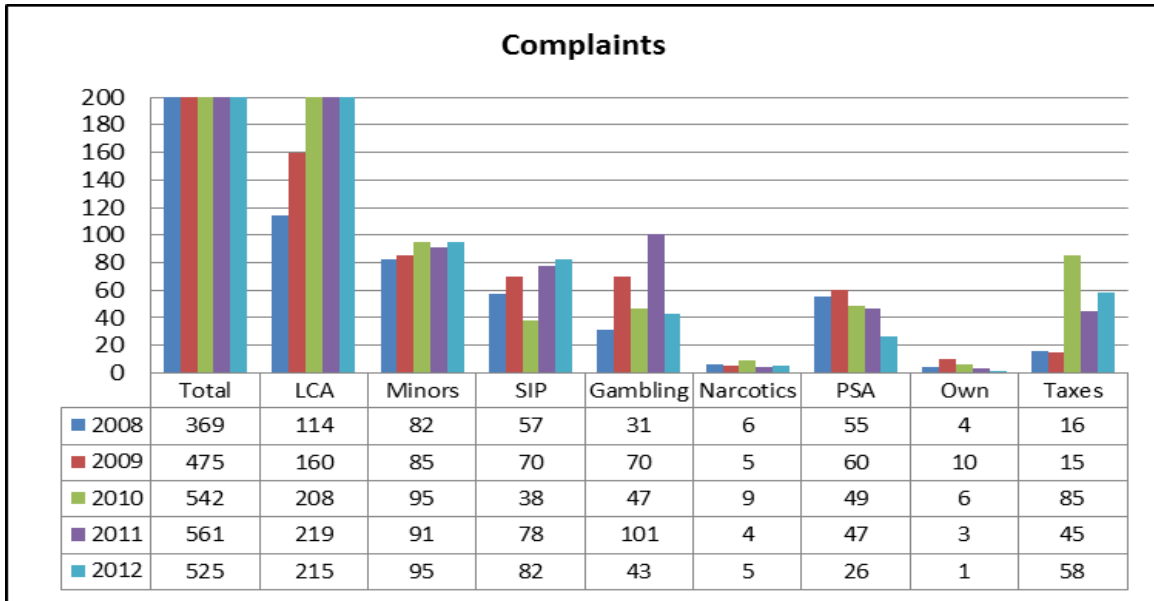
Special Investigators of the Investigation and Enforcement Division are appointed by the Commission pursuant to Massachusetts General Laws Chapter 10 §72. As such, these Investigators are authorized and directed, pursuant to Massachusetts General Laws Chapter 138 §56, to make all needful and appropriate investigations to enforce the Liquor Control Act.

Pursuant to this statutory mandate the Investigation and Enforcement Division established the following objectives: 1) To prevent the sale or delivery of alcoholic beverages to underage individuals; 2) To prevent the sale or delivery of alcoholic beverages to intoxicated individuals and potential drunk drivers; 3) To prevent the sale of alcoholic beverages that are illegally imported or purchased from an illegal source, allowing for tax evasion by the licensee, and to prevent the tampering or dilution of alcoholic beverages; 4) To prevent illegal gambling, particularly poker machines and other electronic gambling devices; 5) To prevent the sale, delivery or use of illegal narcotics on licensed premises; 6) To prevent undisclosed ownership of licensed establishments by individuals or criminal organizations; and 7) To provide suppliers, wholesalers and retailers of the alcoholic beverage industry with a fair and even playing field to conduct their licensed business.

A 2010 study of arrest data has established that seventy five to eighty percent of violent crimes such as assaults and domestic violence are alcohol related. It is the overall objective of this Division to impact public safety and the quality of life in our communities through effective liquor enforcement strategies aimed at reducing the number of alcohol related crimes and traffic crashes. This Division has established effective enforcement programs and regularly partner with local and state police departments to address specific alcohol related problems in communities throughout the commonwealth. These programs have received the following national recognition for their innovation and effectiveness: 2011-National Liquor Law Enforcement Association *Meritorious Service Award for enforcement efforts in Lawrence Massachusetts*; 2008-National Liquor Law Enforcement Association *Enforcement Agency of the Year Award*; 2007-National Conference of State Liquor Administrators "Innovations in Health and Safety" Award; 2005-President's Award from the National Chapter of Mothers Against Drunk Driving; 2004-Recognized as a National Success Story by the United States Justice Department; 2004-National Liquor Law Enforcement Association *Agent of the Year*;

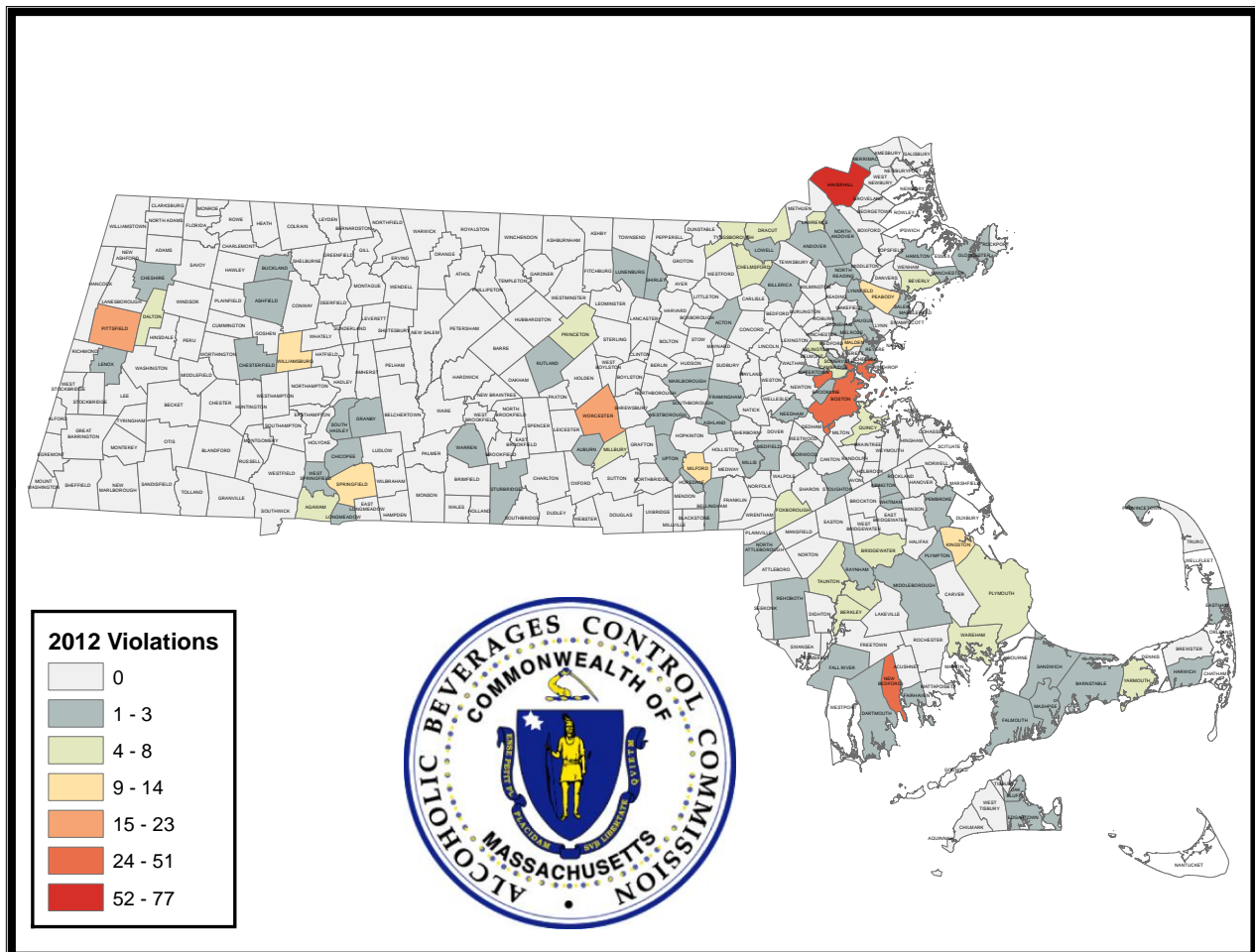
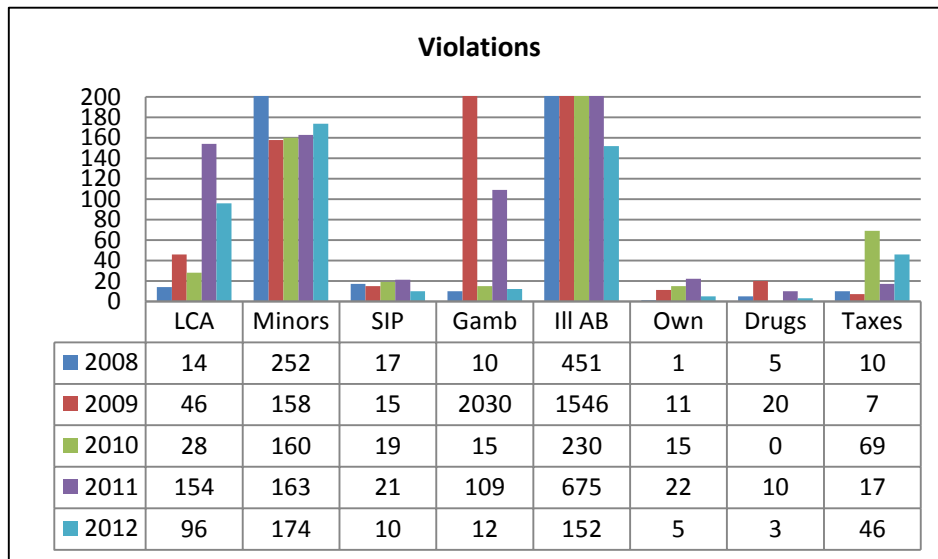
## Complaints

In 2012 525 complaints filed with the Commission were investigated and closed. The Enforcement Division receives complaints from the general public, local and state police, and various public interest groups. These complaints ranged from underage drinking, sale of alcohol to intoxicated individuals, illegal gambling activity, illegal alcoholic beverages and illegal narcotics activity. There are also several ongoing special investigations into gambling, narcotics, and criminal ownership interests at licensed premises.



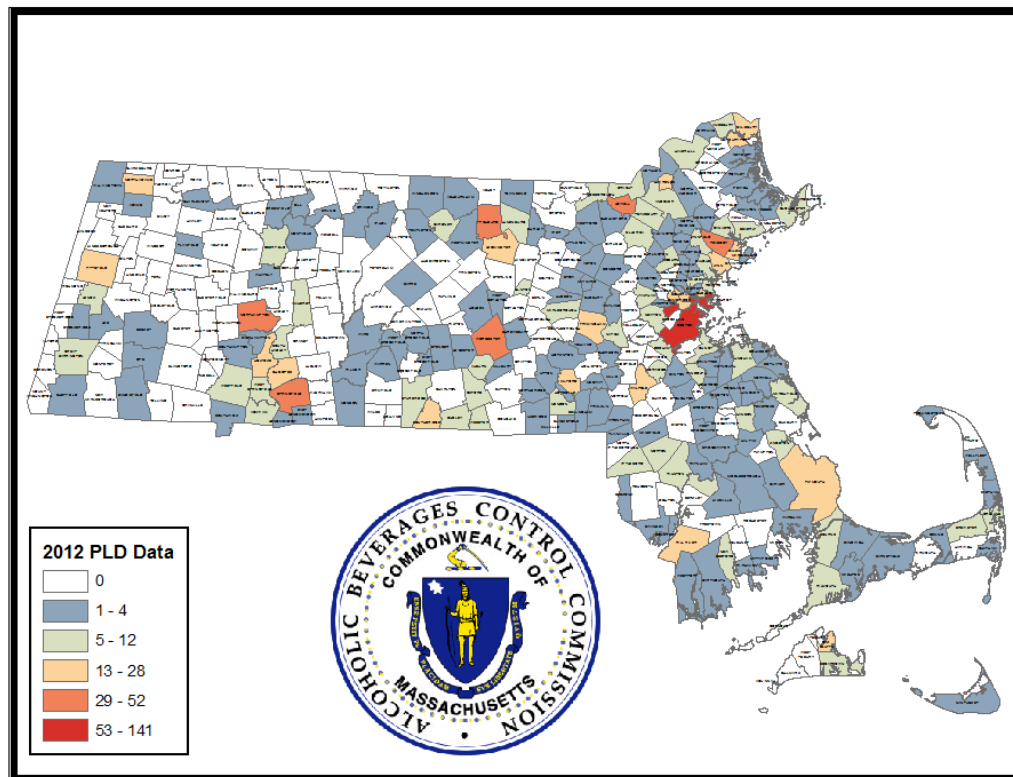
## Liquor Control Act Violations

In 2012 the Investigation and Enforcement Division conducted enforcement operations in approximately 200 municipalities throughout the commonwealth. Investigators observed approximately 498 violations of the Liquor Control Act for which over 257 reports were submitted to the Commission for prosecution. This is more liquor law enforcement than all Massachusetts municipalities combined. These violations ranged from underage drinking, sale of alcohol to intoxicated individuals, illegal gambling, illegal alcoholic beverages, illegal narcotics activity and criminal ownership interests at licensed premises.



### **Data Driven Drunk Driving Prevention Enforcement**

Each year OUI reports are filed with the Commission pursuant to Massachusetts General Laws Chapter 90 §24J, which requires that “In every case of a conviction of or a plea of guilty to a violation of operating a motor vehicle under the influence of intoxicating liquor, *the court shall inquire of the defendant, before sentencing, regarding whether he was served alcohol prior to his violation of said section at an establishment licensed to serve alcohol on the premises and the name and location of said establishment. Any information so acquired by the court shall be transmitted to the alcohol beverage control commission*”. In 2012 there were approximately 2000 OUI reports filed with the Commission.



In order to optimize resources, the ABCC Enforcement Division utilizes this data to identify the bars that are repeat offenders or have the highest number of 24J reports and thus pose the highest risk to public safety. In addition to this data, Investigators respond to requests for assistance from municipal police departments and also focus on bars known to be problematic relative to the over serving of patrons. The Enforcement Division then conducts undercover operations at these bars. If the bar serves alcohol to an obviously intoxicated individual, the Investigators charge the bar with violation of MGL Chapter 138 §69 and arrange for safe transportation or protective custody for the intoxicated individual. Enforcement Division data clearly indicates that this enforcement technique results in a dramatic reduction (as high as 95%) in the number of OUI's originating from the bars that are subject to this intensive liquor enforcement and charged with violating Massachusetts General Laws Chapter 138 §69. In 2011 - 2012 31 of these “worst offender” bars were charged. The Enforcement Division continues to conduct follow up enforcement at these, as well as those locations not charged, to monitor the establishments and to maintain an enforcement presence.

The National Transportation Safety Board (NTSB) held hearings in May of 2012, where Chief Frederick Mahony presented information on the role that alcohol law enforcement officers can play in preventing impaired driving. Chief Mahony provided data from Massachusetts that indicated that using PLD data to guide enforcement actions led to a reduction in driving under the influence arrests associated with establishments that were targeted for intervention. As a result of this testimony, the NTSB stated in their Safety Recommendation to the National Highway Traffic Safety Administration (NHTSA), “An essential part of any arrest or accident investigation involving an alcohol-impaired driver should include an assertive effort by law enforcement officers to determine the location where the impaired driver had been served alcohol. This information is useful to state alcohol law enforcement authorities conducting enforcement actions to deter future violations.”

## **Enhanced Liquor Enforcement Programs**

Massachusetts has one of the lowest ratios of enforcement agents to licensees in the country. Enhanced Liquor Enforcement Programs have been crucial to the public safety of the commonwealth, and have resulted in a steady decline in the illegal purchase of alcoholic beverages by or for underage individuals.

**Operations Safe Campus:** The objective of this operation is to prevent the procurement of alcoholic beverages by and for underage individuals in and around college communities throughout the commonwealth. The Enforcement Division conducts enhanced enforcement operations at bars and liquor stores in college communities over a 6-week period at the beginning of each school year.

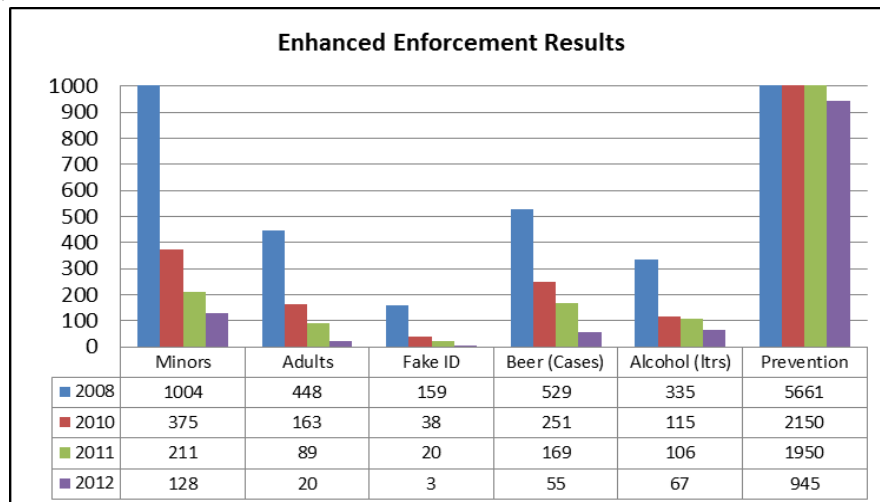
**Operation Safe prom and Graduation:** The objective of this operation is to prevent the procurement of alcoholic beverages by and for underage individuals during the high school and college prom and graduation season. The Enforcement Division conducts enhanced enforcement at liquor stores in communities across the commonwealth over an 8-week period during May and June.

**Operation Safe Summer:** The objective of this operation is to prevent the procurement of alcoholic beverages by and for underage individuals as well as the sale of alcohol to obviously intoxicated individuals in summer communities throughout the commonwealth. The Enforcement Division conducts enhanced enforcement operations at bars and liquor stores in summer communities over a 6-week period during July and August.

**Operations Safe Holidays:** This program consists of two separate operations. The “Last Call” operation targets specific bars that have been identified, pursuant to MGL Chapter 90 § 24J, as having been the last establishment to serve alcoholic beverages to a convicted drunk driver. This operation focuses on preventing intoxicated individuals from getting on the road as well as deterring bar owners from serving the potential drunk drivers. The “Cops in Shops” operation is to prevent the procurement of alcoholic beverages by and for underage individuals during the holiday season. The Enforcement Division conducts this enforcement at bars and liquor stores in communities across the commonwealth from Thanksgiving through December 31<sup>st</sup> each year.

**Parent Notification Program:** For several years the Enforcement Division applied for criminal complaints for underage individuals found in possession of alcoholic beverages or false identification. This process resulted in a negative experience for many families and a criminal record for several underage individuals. The Division implemented its “parent notification” program and has found it to be a tremendous success. Investigators call parents from liquor store parking lots or bars and inform them of the situation their child is in. Investigators have found that this type of intervention is a powerful tool toward a long-term family involvement in addressing the problem of underage drinking.

Since 2005 Investigators have conducted these programs with the following results: 4250 minors in possession or transporting alcoholic beverages; 2119 adults procuring alcohol for minors; 491 individuals in possession of false identification; and 2348 cases of beer and 1564 bottles of alcohol were confiscated by Investigators. Based on the national standard for determining “binge drinking”, this prevented delivery to approximately 29,684 underage individuals.



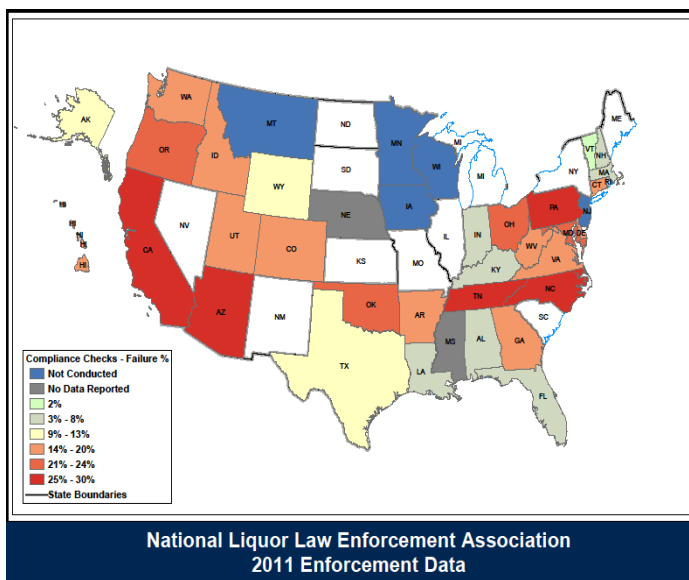
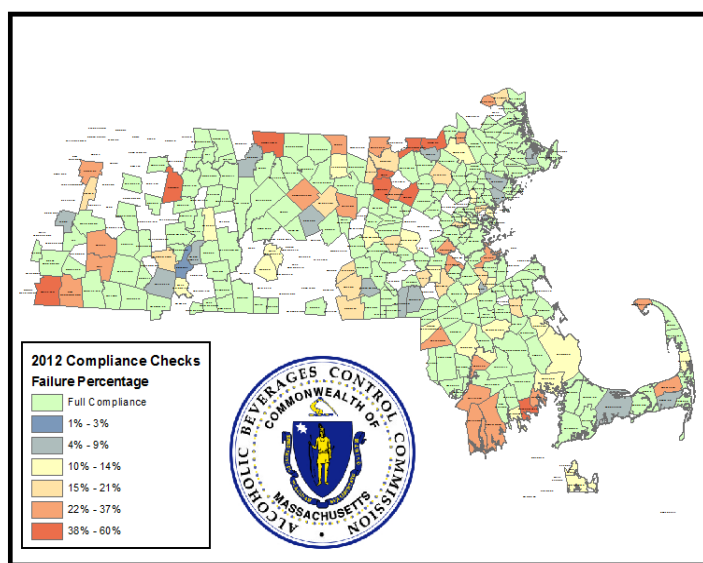


## Compliance Checks and Underage Drinking Prevention Enforcement

The objective of this operation is to prevent the sale of alcoholic beverages to underage individuals by licensed establishments throughout the Commonwealth. The primary focus is to educate licensees and to increase their vigilance in the checking of identification.

Since 2008, when the Massachusetts Alcoholic Beverages Control Commission Investigation and Enforcement Division stepped up compliance check activity, the Enforcement Division has conducted Compliance Checks at 8817 licensed establishments, of which 599 failed (8%). This program has resulted in over a 50% decrease in the failure rate since the program began and a consistent average success rate of 7% over the past few years.

In 2012, the agency conducted Compliance Checks in 236 municipalities across the commonwealth. There were 2287 licensed establishments checked, of which 78 failed (3%). Of these licensees, there were 1001 off-premise licensees checked of which 47 failed (5%); and 1242 on-premise licensees checked of which 31 failed (3%). It should be noted that several municipalities that had relatively high failure rates in 2011 had either a low failure rate or were in full compliance in 2012. This represents an outstanding success rate of 97% and puts Massachusetts in front of the national average success rate of 88%.



## Illegal Gambling Enforcement

The Investigation and Enforcement Division has conducted numerous enforcement operations against illegal gambling at bars throughout the commonwealth. The primary focus of these investigations is the illegal use of electronic poker machines for the purpose of illegal gambling.

Citizens that use these machines often do not realize that the odds on these machines can be set to pay out winnings at a rate as low as 65% of the monies deposited as compared to legitimate casino machines that are set at approximately 95% of the number of plays. In addition, the ABCC looks to maintain a level playing field among all bar owners. For example, if a bar were profiting \$5000.00 per week from illegal poker machines, a neighboring bar would have to produce approximately \$50,000.00 per week in sales to be competitive.

The ABCC receives numerous complaints from individuals whose husbands, wives or relatives have lost their paycheck in these machines. The ABCC estimates that each bar that illegally operates these machines, and the vending companies that supply them, garner between \$3,000 and \$10,000 per week in unreported income. At one bar Investigators uncovered information detailing gambling income of \$1,400,000 with a net profit of \$400,000 annually over a ten year period.

In 2012 the Enforcement Division brought 12 illegal gambling charges against 30 bars and liquor stores. Since 2004 the Enforcement Division has brought approximately 2300 illegal gambling charges against approximately 160 bars and liquor stores.

## **Cooperative Enforcement Operations with Local and State Law Enforcement**

The Investigation and Enforcement Division works in cooperation with local and state law enforcement agencies in order to obtain optimal enforcement coverage. Most often these efforts are generated from requests for assistance from local police chiefs who have problematic licensees in their communities or local conflicts of interest that are eliminated through ABCC cooperation. Further, when a complaint is received at the ABCC, Investigators also reach out to police departments to conduct cooperative enforcement operations when feasible.

In 2012 the Division followed through on cooperative enforcement that was particularly successful in 2011 in the cities of Lawrence and Springfield. In Lawrence the Enforcement Division responded to requests for assistance from the Lawrence Police Department and worked in conjunction with the Lawrence Police, State Police and Essex County Sheriff to address the violence and injury associated with several nightclubs. Over the course of a 6 week period of intensive enforcement at these bars the Enforcement Division charged 39 bars with 118 counts of violating the Liquor Control Act and further maintained a deterrence presence to maintain compliance and public safety. In Springfield the Enforcement Division responded to requests for assistance from the State Police Community Action Team and worked in conjunction with the State police and Hampden County District Attorney's Office to address the violence and injury associated with several nightclubs. Over the course of several months of intensive enforcement at these bars the Enforcement Division charged 9 bars with 21 counts of violation of the Liquor Control Act and further maintained a deterrence presence to maintain compliance and public safety.

In 2012 the Division conducted joint enforcement efforts with the State Fire Marshall to ensure compliance with the Massachusetts Fire Code, particularly at large venues where overcrowding and improper fire prevention measures have been problematic. This joint effort will be continuous, as both agencies are making every effort to conduct this enforcement as often as possible with staffing and budget constraints.

In 2012 the Division, at the request of the Boston Police Department Command Staff as well as the Massachusetts State Police, conducted enforcement of vessels licensed to sell alcoholic beverages operating out of Boston Harbor. This enforcement was initiated after a shooting on the dock of a Boston based vessel in August of 2011 and enhanced, on a near weekly basis, throughout the summer months of 2012. To kick off this effort, Investigators conducted law enforcement training in Detection of Fraudulent Identification and Enforcement of the Liquor Control Act for the Massachusetts State Police and Mass Port Police at Troop F, Logan Airport and the Seaport District. Investigators then also conducted training in Detection of Fraudulent Identification and the Liquor Control Act for the Massachusetts Vessel Licensees in the Seaport District.

In 2012 the Division, at the request of the Mansfield Police Chief, conducted enforcement operations at the Comcast Center in Mansfield. At the beginning of the concert season, Chief O'Neill and Chief Mahony establish communications relative to upcoming events where MPD would request ABCC enforcement support. Concert dates are selected based on the type of music and expected crowd as well as historical problems at the venue when a particular act is playing. The extent of ABCC enforcement includes area liquor stores prior to the Comcast parking lot opening, parking lot enforcement up until the beginning of the concert and then enforcement within the licensed premises. The results of this enforcement operation included: approximately 200 minors in possession of alcohol; 30 arrests; 20 narcotics seizures; numerous medical assists as well as intoxicated or incapacitated assists and the seizure of 80 bottles of alcohol, 50 cases of beer and 75 bottles of miscellaneous containers of alcohol E.g. water bottles.

In 2012 the Division, in cooperation with Worcester and Boston police, conducted underage drinking enforcement operations at "Blackout Parties" that took place at the House of Blues in Boston and the DCU Center in Worcester. In Boston approximately 60 False ID's were seized, 50 PBT tests were conducted and over 600 underage individuals were turned away for entry upon determination that they had consumed alcohol or were intoxicated. In Worcester the results of this enforcement operation included: 10 arrests, 20 medical assists, 20 False ID's were seized, 30 PBT tests were conducted and over 300 underage individuals were turned away upon determination that they had consumed alcohol or were intoxicated. Investigators assisted in crowd control as a crowd rush of the doors came very close to resulting in a very bad situation; we blocked the doors and staggered the entry. 6800 attended. St Vincent's set up a triage unit outside their ER which is across the street; EMT's on detail on constant response; several ambulances transporting for OD or injuries during crowd rush.

In 2012 the Division, in cooperation with Foxboro Police, conducted alcohol enforcement operations at the Country Music Festival at Gillette Stadium. The results of this enforcement operation included: approximately 250 custody arrests for minor in possession of alcohol as well as intoxicated or incapacitated persons.

### **Education of Local and State Law Enforcement**

The Investigation and Enforcement Division works in a concerted effort with Massachusetts Police Academies and Local Police Departments to educate local and state law enforcement officers in the enforcement of the Massachusetts Liquor Control Act as well as False Identification and Fraudulent Document detection. This training enhances the prevention of underage drinking and drunk driving by developing local police department knowledge of and involvement in liquor law enforcement.

The Investigation and Enforcement Division conducted Training Sessions for 270 Police Departments and 1081 Officers in 2009; 169 Police Departments and 729 Officers in 2010; 157 Police Departments and 601 Officers in 2011; and 111 Police Departments and 409 Officers in 2012.

Investigators conducted law enforcement training in Enforcement of the Liquor Control Act as well as assisting the Executive Director in Retail Licensing Outreach at the Massachusetts Municipal Association Conference as well as the Commission Outreach Seminar in Bourne, Worcester, Chelmsford, Milton and Northampton.

Investigators supported the Substance Abuse & Mental Health Administration and Department of Public Health Alcohol Awareness initiative through attendance and support of Town Hall meetings in several municipalities.

Chief Mahony represented the agency at Norfolk District Attorney Michael Morrissey's Impaired Driving Prevention seminar at Gillette stadium.

Chief Mahony attended meeting with the National Highway Transportation Safety Administration and the National Liquor Law Enforcement Association relative to the development of Place of Last Drink (PLD) data in Sales to Intoxicated Persons (SIP) enforcement as part of the NHTSA national impaired driving crackdown.

### **Illegal Ownership / Control Enforcement**

The Investigation and Enforcement Division has conducted several enforcement operations against illegal ownership or control over bars throughout the commonwealth. Investigators are mandated by statute to ensure that all licensees have disclosed all persons who have a direct or indirect financial or beneficial interest in a liquor license. The purpose of this statute is to prevent individuals, who are not of good character and fitness, or criminal organizations from holding an interest in Massachusetts bars and from using such bars to launder monies that may have been obtained through illegal methods.

### **License Application Investigations**

In 2012 Investigators completed **2702 investigations** of licensees that applied to the Commission.